IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

FIRST APPEALS NO. 631 OF 2002 AND 325 OF 2004

F. A. NO. 631/2002 :

State of Maharashtra
through Collector, Buldhana :: PETITIONER

-: Versus :-

Ishwarsingh Parbhatsing Patil
(Rajput) and another :: RESPONDENTS

F. A. NO. 325/2004 :

State of Maharashtra
through Collector, Buldhana :: PETITIONER

-: Versus :-

Devidas Hari Hole
and others :: RESPONDENTS

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CORAM: SMT. V. A. NAIK, J.
DATED: 17TH JULY, 2007.

P. C. :

1. These two first appeals arise out of common judgment passed by the Joint Civil Judge, Senior Division, Buldana on 21/02/2001 partly

allowing reference applications filed by the respondents herein and granting enhanced compensation @ Rs. 25,000/- per hectare, both the appeals are being decided by this common order.

2. The land belonging to the respondents was acquired by the Government by issuing Section 4 notification on 04/7/1991. The land was acquired for the purpose of construction of canal of Vyaghra project. Section 6 notification was issued on 13/02/1992. The Land Acquisition Officer passed the award on 31/3/1993 and awarded compensation @ Rs. 17,000/- per hectare for the land situated in gat No. 43 of village Harankhed. The respondents were not satisfied with the compensation awarded by the L.A.O. and hence filed Reference application.

3. According to the respondents their land were of high quality having black soil and good fertility. The respondents claimed compensation @ Rs. 1,00,000/- per hectare. The Reference Court, however, by the common order dated 21/02/2001 partly allowed the Reference and granted compensation @ Rs. 25,000/- per hectare. The order dated 21/02/2001 is challenged in these two appeals.

4. The respondents tendered oral as well as documentary evidence before the Reference Court. Claimant Vithoba Patil examined himself. He also produced certified copies of the award and 7/12 extract of land gat

No. 171 which was acquired by the State Government. He also examined one Sanjay Neve who had sold certain land on 18/4/1991 and produced the certified copy of sale deed at Exh. 44. Other claimants also examined themselves.

5. Several land acquisition cases were decided by the common order dated 21/02/2001. The witnesses examined on behalf of the respondents deposed that adjacent lands were converted for non agricultural use and the extract of index register shows that the land in question could have fetched an amount of Rs. 1,00,000/- per hectare. According to the witnesses and the extract of sale index, one Gulabsingh sold ½ Guntha of land to Shrikrishna Karande for the consideration of Rs. 7,000/- and one Rajaram Neve sold 0.03 H.R. hand for consideration of Rs. 9,000/-. The Reference Court did not consider the transaction effected for ½ guntha of land as it was executed in the year 1995. However, the Reference Court had relied on the extract of the index register which shows that in the year 1991 one Rajaram had sold 0.03 H.R. of land for the consideration of Rs. 9,000/-. The Reference Court did not grant compensation at the rate at which Rajaram had sold the land as the land of Rajaram was situated towards southern side of the village whereas the land acquired was situated at the eastern side of the

village. The Reference Court then considered the fact that village Harankhed was having population of 2000 and there was a Gram Panchayat, Primary School and Cooperative society and market place in the village. Malkapur is situated at the distance of 20 k.m. from village Harankhed and was attached by tar road. Since the village was a developed village and the acquired land was having good fertility and productivity, according to the Reference Court the claimants were entitled to compensation @ Rs. 25,000/- per hectare. The Reference Court, therefore, after considering the pros and cons of the matter arrived at a conclusion that the market price of the acquired land was not less than Rs. 25,000/- per hectare and granted enhanced compensation at that rate. The approach of the Reference Court in arriving at the aforesaid conclusion is extremely reasonable. No fault can be found with the order passed by the Reference Court on 21/02/2001.

6. For the reasons aforesaid, both the appeals are dismissed with no order as to costs.

JUDGE

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